



Robert Charles Ward
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May 9, 2011

Magistrate Donna M. Ryu
United States District Court
Northern District of California
1301 Clay Street
Oakland, CA 94612

Re: *Ketan Desai v. Christopher Clark, et al.*
Case No. C11-01809 DMR

Dear Magistrate Ryu:

We are co-counsel for defendants Christopher Clark and RS Investments (“Defendants”).

On behalf of Defendants, we wish to bring to your attention an unresolved motion that was pending in the Eastern District of Pennsylvania at the time that the Court ordered that this case be transferred to the Northern District of California. Specifically, Defendants had moved to dismiss Plaintiff’s complaint on two bases: (1) for lack of personal jurisdiction pursuant to FRCP 12(b)(2), and (2) for failure to state a claim pursuant to FRCP 12(b)(6). The Honorable Norma L. Shapiro found that Eastern District of Pennsylvania did not have personal jurisdiction over Defendants and ordered the case transferred to the Northern District of California, pursuant to 28 U.S.C. § 1406(a). Judge Shapiro did not reach the question of whether Plaintiff’s complaint fails to state a claim and therefore should be dismissed pursuant to FRCP 12(b)(6). Therefore, that portion of the motion remains undecided.

This motion was briefed in the Eastern District of Pennsylvania. However, in light of the transfer of the case, perhaps the Court may find it helpful to have a conference to obtain input from the parties as to how the pending motion should be resolved. Defendants respectfully request guidance from the Court in this regard.

Respectfully submitted,

Robert Charles Ward

RCW:jli

cc: Ketan Desai
Malcolm J. Gross, Esq.
Samuel E. Cohen, Esq.

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bcc: Benjamin L. Douglas